

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 2511 of 2025 (MS)

M/s Deccan Charters Pvt. Ltd.Petitioner

Versus

The State of Uttarakhand and othersRespondents

Present:-

Mr. Praveen Kumar, Mr. Suhaas Ratna Joshi, Advocates through video conferencing and Ms. Bhavya Sharma, Advocate for the petitioner.

Mr. Narain Dutt, Standing Counsel for the State.

Ms. Devika Tiwari, Advocate for the respondent no. 4.

Mr. Devesh Pande, Advocate for the respondent nos. 6 to 11.

Writ Petition No. 1401 of 2024 (MS)

M/s Deccan Charters Pvt. Ltd.Petitioner

Versus

The State of Uttarakhand and othersRespondents

Present:-

Mr. Praveen Kumar, Mr. Suhaas Ratna Joshi, Advocates through video conferencing and Ms. Bhavya Sharma, Advocate for the petitioner.

Mr. Narain Dutt, Standing Counsel for the State.

Ms. Devika Tiwari, Advocate for the respondent no. 4.

Mr. Devesh Pande, Advocate for the respondent nos. 6 to 11.

JUDGMENT

Hon'ble Ravindra Maithani, J.

Since common questions of law and facts are involved in all these writ petitions, they are heard together and decided by this common judgment. However, for sake of convenience, facts would be referred from Writ Petition (M/S) No. 2511 of 2025 and parties shall be referred to accordingly, unless otherwise specifically specified.

2. It is the case of the petitioner that it has been operating *Shri Hemkund Sahibji Helicopter Shuttles* for *Shri Hemkund Sahibji Yatra* since 2011. The petitioner had taken on lease certain land from respondent nos. 6 to 11 and had been operating a helipad at Govind Ghat, Tehsil Joshimath, District Chamoli, Uttarakhand (“the helipad”). The helipad includes passenger lounge, ticket counter, etc. On 23.05.2024, the helipad was temporarily acquired by the respondent State under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (“the 2013 Act”).

3. In WP (M/S) No. 1401 of 2024, the challenge is made to that temporary acquisition done by the respondent State on 23.05.2024 on the ground that it has been acquired without following the provisions of law and the petitioner seeks direction that the respondents may be directed to restore the control and possession of helipad to the petitioner. Related reliefs have also been sought.

4. During the pendency of WP (M/S) No. 1401 of 2024, on 15.07.2025, on behalf of the respondent no. 4/the Uttarakhand Civil Aviation Development Authority (“UCADA”), a statement was given that the helipad has further been temporarily acquired on 10.06.2025. Thereafter, the petitioner challenged the temporary acquisition order dated 27.06.2025 of the District Magistrate, Chamoli, in WP (M/S) No. 2511 of 2025, with related reliefs.

5. It is the case of the petitioner that it has been operating the *Shri Hemkund Sahibji Helicopter Service* since 2011. It had contract with the respondent no. 4/UCADA, but the respondent no. 4/UCADA terminated the contract with the petitioner and informed that the remaining period under the contract for providing helicopter shuttles would be served by Pawan Hans Limited (“PHL”). In view of long association with the respondent no. 4/UCADA, the petitioner continued all support, including helipad, lounge, toilets, electricity, water, etc. free of cost for remaining period of the *Shri Hemkund Sahibji Helicopter Shuttle Service*. But, on 14.05.2024, the respondent no. 4/UCADA blacklisted the petitioner. It is the case of the petitioner that, in fact, it had taken the land on lease from respondent nos. 6 to 11 by virtue of a registered lease deed dated 24.01.2014, whereupon the helipad was constructed/developed by the petitioner, incurring huge expenditure over the years. The registered lease deed came to an end on 31.03.2024, but the lease deed was extended till 31.03.2027, however, as all the respondent nos. 6 to 11 were not available, the extension of lease deed could not be registered. According to the petitioner, on 23.05.2024, the respondent nos. 6 to 11 issued an undertaking confirming the petitioner that their lease has been extended till 31.03.2027. The petitioner’s further case is as follows:

- (i) On 23.05.2024, the District Magistrate, Chamoli, Uttarakhand through Tehsildar, Joshimath illegally entered into the premises of the helipad; broke open the lock and took over the possession of the commercially functional helipad, under the garb of an acquisition order dated 23.05.2024. It is enclosed as Annexure

No. 12 to WP (M/S) No. 1401 of 2024, which records that the temporary acquisition was done till the duration of *Char-Dham Yatra* or six months, whichever is beyond, and it was so done under the 2013 Act.

- (ii) The Tehsildar, Joshimath along with other revenue officials and police officers, in compliance of the temporary acquisition order dated 23.05.2024, entered into the premises of the helipad and telephonically called one of the land owners i.e. respondent no. 6, Kishore Singh Panwar, who categorically informed the Tehsildar that the helipad is under the lease of the petitioner. Thereafter, the Tehsildar called the incharge of the petitioner, namely, Mr. Sandeep Singh and shared the acquisition order with him. Thereafter, the Tehsildar broke open the lock and forcibly took over the possession of the helipad knowing well that the petitioner is in the rightful possession of the helipad.
- (iii) The possession of the helipad has been taken over by the State machinery from the petitioner illegally.
- (iv) The petitioner, on 24.05.2024 submitted a complaint to the Police Station Govind Ghat, Joshimath.

6. It is at this stage that the petitioner while claiming possession of the helipad, filed WP (M/S) No. 1401 of 2024. It has

been the case of the petitioner that PHL is operating the helicopter service from the helipad without any agreement, consent or commercial terms from the petitioner or the owners of the land, where the helipad is constructed. Therefore, the challenge is made to the acquisition order dated 23.05.2024, *inter alia*, on the ground that there is no public purpose involved in the acquisition of the helipad; the respondents have misused the authority without following due process of law; the acquisition is contrary to the provisions of the 2013 Act; and the acquisition is contrary to the principle of law as laid down by the Hon'ble Supreme Court in the case of Kolkata Municipal Corporation and Anr. Vs. Bimal Kumar Shah and Ors.¹

7. During the pendency of WP (M/S) No. 1401 of 2024, on 15.07.2025, a statement was given on behalf of the respondent no. 4/UCADA that the helipad has been further acquired. It is thereafter, WP (M/S) No. 2511 of 2025 was filed challenging the temporary acquisition order dated 27.06.2025 passed by the District Magistrate, Chamoli. It has been the case of the petitioner that under the 2013 Act, they have never been issued notices and the acquisition was done in defiance to the mandatory provisions of law and the principles of natural justice.

8. In WP (M/S) No. 2511 of 2025, the petitioner has challenged the acquisition order dated 27.06.2025. The petitioner has also claimed compensation in accordance with the market rate for landing undertaken for the entire period since being most applicable *vis-a-vis* the helipad Policy, 2023-24 of the respondent no. 4/UCADA or its Landing Charges Rate List of 2018. Other related reliefs have also been sought by the petitioner.

¹ (2024) 10 SCC 533

9. The respondent no. 3/District Magistrate, Chamoli filed his counter affidavit in WP (M/S) No. 1401 of 2024 and, *inter alia*, it is stated that the permission to acquire the land was given to District Magistrate, Chamoli with the restriction and condition that the entire expenditure for the acquisition would be borne by the respondent no. 4/UCADA and the acquisition was done taking due cognizance of the interests of the stakeholders. In para 4 of its counter affidavit, the respondent no. 3/District Magistrate, Chamoli has stated that the respondent no. 6 **“Shri Kishore Pawar etc. are not giving their consent regarding the use of the said helipad, but the facility of heli service to the devotees and pilgrims for the Shri Hemkund Sahi Yatra starting from 25.05.2024 must be provided to the people of Char Dham Yatra. It is absolutely necessary to take temporary acquisition of the interested persons like Mr. Kishore Panwar and ors, in relation to the purpose, public interest and interest in hiring the helipad situated in the private land”**. Therefore, the respondent no. 3/District Magistrate, Chamoli acquired the helipad on 23.05.2024 keeping in view the urgency of *Shri Hemkund Sahib Yatra* for six months or till the period of *Char-Dham Yatra*, whichever is beyond and it has been done under Section 81(2)(3) of the 2013 Act.

10. In WP (M/S) No. 1401 of 2024, the respondent no. 4 has, *inter alia*, objected that after enquiring from the office of the Sub-Registrar, Joshimath, it was revealed that there was no renewal of the lease deed of the helipad in question in favour of the petitioner; therefore, the petitioner has no *locus standi* to file the present writ petition challenging the order of acquisition. It is

submitted that there was an emergent situation in terms of providing heli services, as the *Char-Dham Yatra* season was to start from 25.05.2024, and on 20.05.2024, a letter was issued to the respondent no. 6 Kishore Singh Panwar seeking his approval for using the helipad, but he did not reply. Thereafter, the acquisition was done.

11. In WP (M/S) No. 2511 of 2025 also, the respondent no. 3/District Magistrate, Chamoli filed his counter affidavit and, *inter alia*, stated that keeping in view the urgency of *Shri Hemkund Sahib Yatra*, the temporary acquisition of private helipad was done for the duration of *Char-Dham Yatra* or for six months, whichever is beyond and it was done in accordance with the provisions of Section 81(2)(3) of the 2013 Act. It is stated that the acquisition order was duly served to the concerned persons by the Tehsildar, Joshimath.

12. The respondent no. 4/UCADA has also filed its counter affidavit in WP (M/S) No. 2511 of 2025. The grounds that were taken in the earlier writ petition i.e. WP (M/S) No. 1401 of 2024, were taken in this petition also. In para 11 of the counter affidavit filed on behalf of the respondent no. 4/UCADA, it is recorded that, in fact, the respondent no. 6, Kishore Singh Panwar was given a letter on 20.05.2024 seeking his approval for using the helipad, but despite multiple requests, the respondent no. 6 Kishore Singh Panwar did not reply. In para 14 of its counter affidavit, the respondent no. 4/UCADA has stated that, in fact, the land on which the petitioner had operated the helipad is situated in Village Pandukeshwar, Govind Ghat, belonging to the respondent nos. 6 to 11, which was taken on lease by the petitioner by virtue of

registered lease deed upto 31.03.2024. But, there was no extension of this lease deed beyond 31.03.2024, as on inquiry having been made from the Sub-Registrar, Joshimath, on 05.06.2024, it was informed that the extension of lease deed is not registered.

13. It has been the case of the respondent no. 4/UCADA that the respondent no. 4/UCADA is not concerned whatsoever with the acquisition of the property in issue (Para 18 of the counter affidavit of the respondent no. 4/UCADA). In para 42 of the counter affidavit, it has been stated by the respondent no. 4/UCADA that the acquisition order dated 27.06.2025 was forwarded to all the related and interested persons through Tehsildar, Joshimath and the notices have been clearly served to all the interest persons in the matter. It has been the case of the respondent no. 4/UCADA that as per the provisions of Section 81 of the 2013 Act, the property can be temporarily acquired for a period, which can be extended upto three years.

14. Heard learned counsel for the parties and perused the record.

15. Learned counsel for the petitioner submits that the writ petition is maintainable. He would submit that the jurisdiction under Article 226 of the Constitution of India is not restricted; mere statutory remedy also does not bar the jurisdiction under Article 226 of the Constitution of India. It is argued that, in fact, in the instant case, the only ground, on which the acquisition order has been challenged by the petitioner is that the acquisition has been done *de hors* the provisions of Section 81 of 2013 Act, which provides for temporary acquisition. It is argued that it is necessary

to give a notice to the person interested before the acquisition is done; but, in the instant case, it has not been done. Learned counsel has referred to the provisions of law as laid down in the case of *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and others*², wherein the Hon'ble Supreme Court has, *inter alia*, held that the alternate remedy is not to operate as a bar atleast in some contingencies, including when there has been a violation of the principles of natural justice. In para 15 of the judgment, the Hon'ble Supreme Court observed as follows:

“**15.** Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

16. Learned counsel for the respondent no. 4/UCADA argued that, in fact, in the matter of temporary acquisition, title is not taken into consideration and mere possession is taken into consideration; a detail notice under Section 81 of the 2013 Act is not required and in case, the petitioner was aggrieved, he would have approached the authority under the provisions of the 2013 Act and refer the matter and in case, possession is not handed over on time, recourse could have been taken to the civil court. In support of her contention, learned counsel for the respondent no.

² (1998) 8 SCC 1

4/UCADA has referred to the principle of law as laid down in the cases of Brij Behari Sahai v. State of Uttar Pradesh³, the Commissioner of Income-Tax, Punjab v. Dr. Sham Lal Narula⁴, Oil & Natural Gas Commission Ltd. v. Pandya Prahladbhai Manilal and others⁵ and Patel Shambhubhai Bhaichanddas v. State of Gujarat & Anr.⁶.

17. In the case of Brij Behari Sahai (*supra*), the Hon'ble Supreme Court has, *inter alia*, held that when temporary occupation is taken, the title remains untouched.

18. In the case of Dr. Sham Lal Narula (*supra*), the issue was entirely different, which is as follows:

“Whether on a true interpretation of section 34 of the Land Acquisition Act and the award given by the Collector of Pepsu on the 30th September, 1955, the sum of Rs. 48,660 was capital receipt not liable to tax under the Indian Income-tax Act?”

19. In that context, Section 34 of the 1894 was quoted by the Hon'ble Punjab High Court (as it was then) and thereafter it was recorded that **“The provisions that follow do not require any detailed notice as they deal with temporary occupation of land, acquisition of land for companies, and miscellaneous matters with which this court is not concerned for purposes of this case”**.

20. In the case of Pandya Prahladbhai Manilal (*supra*), the claimants were dissatisfied with the award and a reference was made under Section 35(3) of the 1894 Act, which deals with the temporary occupation. In that background, the Hon'ble Gujarat High Court observed that **“interested persons can ask for**

³ (1986) 3 SCC 564

⁴ AIR 1963 P&H 411

⁵ 2006 SCC OnLine Guj 120

⁶ 2006 SCC OnLine Guj 227

reference to the Court under Section 35(3) of the Act if such persons are not satisfied by the sufficiency of the compensation or apportionment fixed by the Collector at the time of taking possession for occupation of the land for a temporary period of three years". The Hon'ble Court further observed that **"If the acquiring body has retained the possession of the lands after the stipulated period, the land owners can move the Collector under Section 36 of the Act to restore the land....."**.

21. In the case of Patel Shambhubhai Bhaichanddas (*supra*), a reference was made on the amount compensation for temporary occupation under Section 35 of the 1894 Act, which is now substituted by Section 81 of the 2013 Act. The provisions are similar. In the case of Patel Shambhubhai Bhaichanddas (*supra*), discussion has been made with regard to the history of the provision of Section 35 of the 1894 Act and in para 20 of the judgment, the Court held that it is obligatory upon the Collector to restore possession at the expiration of three years. But if he fails to return the possession on expiry of the stipulated time limit not exceeding three years, the 1894 Act is silent on this aspect. The possession can be termed as unauthorized and recourse to the civil court can then be made for seeking possession.

22. During the arguments, reference to Section 51 of the 2013 Act has also been made, which deals with the disputes relating to the land acquisition. Section 51 of the 2013 Act reads as follows:

"51. Establishment of Land Acquisition, Rehabilitation and Resettlement Authority. – (1) The appropriate Government shall, for the purpose of providing speedy disposal of disputes relating to land acquisition, compensation, rehabilitation and

resettlement, establish, by notification, one or more Authorities to be known as “the Land Acquisition, Rehabilitation and Resettlement Authority” to exercise jurisdiction, powers and authority conferred on it by or under this Act.

(2) The appropriate Government shall also specify in the notification referred to in sub-section (1) the areas within which the Authority may exercise jurisdiction for entertaining and deciding the references made to it under Section 64 or applications made by the applicant under second proviso to sub-section (1) of Section 64.”

23. On behalf of the respondent no. 4/UCADA, it is submitted that, in fact, the authority under Section 51 of the 2013 Act has been constituted and the petitioner has a statutory remedy to agitate the cause.

24. Undoubtedly, mere statutory remedy does not restrict the Courts to exercise the jurisdiction under Article 226 of the Constitution of India. The first petition i.e. WP (M/S) No. 1401 of 2024 was filed by the petitioner in the year 2024 and it was taken up for the first time on 05.06.2024. It is during the pendency of WP (M/S) No. 1401 of 2024, when on 15.07.2025, it was revealed by the respondent no. 4/UCADA that further acquisition in the year 2025 has been made. The petitioner has only raised the pure question of law. No factual disputes are involved. All the facts are admitted. Therefore, after two years, it may not be in the interest of justice to relegate the petitioner to any statutory remedy. Moreover, the claim of the petitioner is that it was never served with a notice and it is a pure legal point. Hence, this Court is of the view that it cannot be said that the petitions are not maintainable in view of any statutory alternate remedy.

25. Learned counsel for the petitioner submits that initially the respondent nos. 6 to 11 had executed the lease deed in favour of the petitioner till 31.03.2024, which was registered. But,

subsequently, it was extended upto 31.03.2027 by an unregistered lease deed dated 05.10.2021. He would submit that it is not always necessary to have the lease deed registered. He would submit that even unregistered lease deed could be used for collateral purposes like possession. In support of his contention, learned counsel has placed reliance on the principle of law as laid down in the case of Paul Rubber Industries Private Limited v. Amit Chand Mitra and another⁷.

26. In the case of Paul Rubber Industries Private Limited (*supra*), in para 21 of the judgment, the Hon'ble Supreme Court, *inter alia*, held that nature and character of possession could constitute collateral purpose and further that nature and character of possession contained in a flawed document (being unregistered) can form collateral purpose when the "nature and character of possession" is not the main term of the lease. In para 21 of the judgment, the Hon'ble Supreme Court observed as follows:

"21. In *Satish Chand Makhan* [*Satish Chand Makhan v. Govardhan Das Byas*, (1984) 1 SCC 369] , another coordinate Bench of this Court declined to accept admissibility of an unregistered lease agreement for determining duration of the lease (9 years in that case) on the reasoning that terms of lease would not constitute collateral purpose. It was observed in this judgment that "nature and character of possession" could constitute collateral purpose but that was not the point which was directly in lis before this Court. In our opinion, nature and character of possession contained in a flawed document (being unregistered) in terms of Section 107 of the 1882 Act and Sections 17 and 49 of the Registration Act can form collateral purpose when the "nature and character of possession" is not the main term of the lease and does not constitute the main dispute for adjudication by the court. In this case, the nature and character of possession constitutes the primary dispute and hence the Court is excluded by law from examining the unregistered deed for that purpose. In respect of the suit out of which this

⁷ (2024) 13 SCC 219

appeal arises, purpose of lease is the main lis, not a collateral incident.”

27. Learned counsel for the respondent no. 4 submits that, in fact, the respondent no. 4/UCADA had sought information from the Sub-Registrar, Joshimath on 03.06.2024 with regard to any registered lease deed in favour of the petitioner and the Sub-Registrar, Joshimath by its communication dated 05.06.2024 communicated that there is no registered lease deed beyond 31.03.2024. Reference has been made to Annexure 5 to the counter affidavit filed on behalf of the respondent no. 4/UCADA in WP (M/S) No. 2511 of 2025.

28. It may be noted that the first temporary acquisition was made by the respondent State on 23.05.2024, which means after temporary acquisition having been made, the respondent no. 4/UCADA inquired about the registered lease deed in favour of the petitioner. Otherwise also, it was required to be done by the respondent State of Uttarakhand.

29. Learned counsel for the respondent no. 4/UCADA also submits that, in fact, the petitioner was blacklisted with a valid reason; the only available helipad is the helipad in question, from which the respondent no. 4 is operating; if the helipad goes, it will disrupt the services.

30. Learned counsel for the State submits that, according to the petitioner itself, the registered lease deed had expired on 31.03.2024 and thereafter there was only an unregistered lease deed. It is argued by the learned State Counsel that the unregistered lease deed does not create any statutory right in

respect of an immovable property. In support of his contention, learned counsel for the State has placed reliance on the judgment in the case of Sevoke Properties Limited v. West Bengal State Electricity Distribution Company Limited⁸. Reference has been made to para 11 of the judgment, wherein the Hon'ble Supreme Court has held **“a lease of immovable property for a term exceeding one year can only be made by a registered instrument”**.

31. Annexure 7 in WP (M/S) No. 2511 of 2025 is the report of Tehsildar, Joshimath given to the Sub-Divisional Magistrate, Joshimath with regard to taking possession of the helipad on 23.05.2024. It records that after temporary acquisition order dated 23.05.2024, when he reached at the helipad, he called the respondent no. 6 Kishore Singh Panwar on his mobile number and asked him to join the proceedings, but he denied to come and informed that there has been a lease agreement with the petitioner, therefore, the petitioner should be informed. Thereafter, according to this communication, the incharge of the petitioner, namely, Sandeep Singh was contacted and the temporary acquisition order was read over to him. He was asked to open the lock, to which he denied. Thereafter, the locks were broken up and possession was taken.

32. The respondent nos. 6 to 11 had filed an interim application (IA No. 6 of 2025) in WP (M/S) No. 1401 of 2024 and they have stated in para 4 of it that the helipad was in use and occupation of the petitioner as a tenant after 31.03.2024 till 23.05.2024 when it was illegally taken over from the petitioner. The respondent nos. 6 to 11 have further stated that the lease deed

⁸ (2020) 11 SCC 782

was extended by them and accordingly the lease was extended upto 31.03.2027 vide another lease agreement dated 05.10.2021 during the continuance of the registered lease deed and advance rent has already been received by the respondent nos. 6 to 11.

33. From the above narration of facts, a few facts are admitted, which are as under:-

- (i) The land on which the helipad was operated by the petitioner was taken on lease by the petitioner from the respondent nos. 6 to 11 by virtue of the registered lease deed, which was valid upto 31.03.2024.
- (ii) Thereafter, the respondent nos. 6 to 11 executed another lease deed in favour of the petitioner upto 31.03.2027. But, this lease deed was not registered.
- (iii) The petitioner was in possession of the helipad on both the occasions i.e. on 23.05.2024 and 27.06.2025, when the helipad was temporarily acquired under Section 81 of the 2013 Act.
- (iv) When for the first time on 23.05.2024, the helipad was acquired by the respondent State and the possession was taken over by the Tehsildar, Joshimath, the possession was taken from the petitioner itself. At that time, the respondent no. 6 was informed by the Tehsildar, Joshimath, who told the Tehsildar, Joshimath that the helipad was on lease to the petitioner, therefore, petitioner may be contacted. The

petitioner's official at the spot was contacted to handover the possession, to which he denied.

34. Admittedly, the petitioner was in possession of the land on which the helipad was being operated on 23.05.2024, when, for the first time, the helipad was temporarily acquired. There was an unregistered lease deed in favour of the petitioner. In fact, the record reveals that till 23.05.2024, the respondents had no knowledge of unregistered lease deed. It came to the notice of the respondent no. 4/UCADA on 05.06.2024 when on 03.06.2024, they inquired about it from the Sub-Registrar, Joshimath.

35. Admittedly, the respondent nos. 6 to 11 had executed the lease deed in favour of the petitioner. In the instant case, nature and character of the possession is not the main dispute. Based on the unregistered lease deed also, admittedly the possession of the petitioner is not in dispute. The possession through unregistered lease deed can be seen for the purpose of possession, which forms collateral purpose. The petitioner was in possession of the helipad.

36. Learned counsel for the petitioner also submits that since lease deed of the land, on which helipad was operating, was in favour of the petitioner, in view of Section 3(x) of the 2013 Act, he is a person interested, who needs to be given notice before even temporary acquisition under Section 81 of the 2013 Act.

37. Learned counsel for the State submits that the petitioner is a company and under Section 3(x) of the 2013 Act, a company does not fall within the definition of a person interested.

In support of his contention, learned counsel has placed reliance on the principle of law as laid down in the case of Peerappa Hanmantha Harijan (Dead) by Legal Representatives and others v. State of Karnataka and another⁹. Reference has been made to para 63 of it, in which the Hon'ble Supreme Court under the facts and circumstances of the case held that the company in that case was neither the beneficiary nor interested person of the acquired land, hence, the company in that case had no right to participate in the award proceedings for determination of the market value and award the compensation amount of the acquired land of the appellants.

38. In the case of Peerappa Hanmantha Harijan (*supra*), the Hon'ble Supreme Court did not opine that a company cannot be a person interested as defined under Section 3(x) of the 2013 Act. Therefore, the argument of the learned counsel on that aspect has less merit for acceptance.

39. Learned State Counsel has also argued that the writ petition is not maintainable, as the petitioner is not person interested. In support of his contention, learned counsel has placed reliance on the principle of law as laid down in the case of Shrachi Burdwan Developers Private Limited v. State of West Bengal and others¹⁰.

40. In the case of Shrachi Burdwan Developers Private Limited (*supra*), the land was acquired by the Burdwan Development Authority ("BDA") and a notification was issued under Section 4 of the Land Acquisition Act, 1894 ("the 1894 Act").

⁹ (2015) 10 SCC 469

¹⁰ (2022) 15 SCC 496

Thereafter, the Land Acquisition Collector declared the award under Section 12(1) of the 1894 Act. The amount was paid by the BDA. The State took possession of the land from the farmers and it was handed over to the BDA and the BDA handed it over to the Bengal Shrachi. In the meanwhile, references under Section 18 of the 1894 Act were made and the Reference Court allowed the references and enhanced the compensation, against which four appeals were pending before the High Court of Judicature at Calcutta. But, the appellant also challenged the Reference Court's order in the writ petition. Under those facts and circumstances of the case, the Hon'ble Supreme Court in the case of Shrachi Burdwan Developers Private Limited (*supra*), placed reliance on the principle of law as laid down in the case of Peerappa Hanmantha Harijan (*supra*) and in para 17 of the judgment observed that **“The question is not about maintainability of the writ petition. The question is with respect to the entertainability of the writ petition”** and held that in fact, the writ petition should not have been entertained challenging the judgment and award passed by the Reference Court, when there is a special remedy of appeal under Section 54 of the 1894 Act. Instant is not a case against the award of a Reference Court. In the instant case, the challenge is made to the acquisition proceeding itself.

41. Section 3(x) of the 2013 Act defines the “person interested” as below:-

“3. Definitions. In this Act, unless the context otherwise requires, -

.....

(x) “person interested” means –

- (i) all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act;
- (ii) the Scheduled Tribes and other traditional forest dwellers, who have lost any forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);
- (iii) a person interest in an easement affecting the land;
- (iv) persons having tenancy rights under the relevant State laws including share-croppers by whatever name they may be called; and
- (v) any person whose primary source of livelihood is likely to be adversely affected.”

42. A bare reading of the above provision makes it abundantly clear that a person having tenancy rights falls within the definition of “person interested”. There has been an unregistered lease deed in favour of the petitioner on both the occasions, when the temporary acquisition was done. Though the lease deed was not registered, but for the purposes of possession of the helipad, the lease deed is admissible. It is collateral purpose. Therefore, this Court is of the view that, in fact, the petitioner was a person interested within the meaning of Section 3(x) of the 2013 Act.

43. Learned counsel for the State also argued that in WP (M/S) No. 1401 of 2024, the temporary acquisition order dated 23.05.2024 has not been challenged, hence the relief of possession, which a consequential relief, could not be granted. In support of his contention, learned State Counsel has placed reliance on the principle of law as laid down in the cases of *Edukanti Kistamma (Dead) Through LRs and others v. S.*

Venkatareddy (Dead) Through LRs and others¹¹ and Rajasthan Art Emporium v. Kuwait Airways and another¹²

44. In the case of *Edukanti Kistamma (supra)*, the dispute was with regard to the rights under the tenancy records and ownership. In para 21 of the judgment, the Hon'ble Supreme Court observed that **"There is a complete embargo on the right of the landholder to alienate the tenanted land to a third party without giving an option to the tenant to purchase the land."** Further, in para 22 of the judgment, the Hon'ble Supreme Court observed that **"It is a settled legal proposition that challenge to consequential order without challenging the basic order/statutory provision on the basis of which the order has been passed cannot be entertained"**.

45. In the case of *Rajasthan Art Emporium (supra)*, in para 26, the Hon'ble Supreme Court observed that **"It is a trite law that a party is not entitled to seek relief which he has not prayed for"**. The *Rajasthan Art Emporium (supra)* is a case, which had reached to the Hon'ble Supreme Court from an order passed by the National Consumer Dispute Redressal Commission.

46. On this aspect, learned counsel for the petitioner submits that the principles of law as cited on behalf of the respondent State are not applicable in the instant case. He would submit that the case laws cited by the learned State Counsel are under statutes, which are not applicable in the writ jurisdiction. Learned counsel has placed reliance on the judgments in the cases

¹¹ (2010) 1 SCC 756

¹² (2024) 2 SCC 570

of Union of India and others v. Bali Ram¹³ and Rajesh Kumar and others v. State of Bihar and others¹⁴.

47. In the case of Bali Ram (*supra*), the Hon'ble Supreme Court, *inter alia*, held that **“the rule that requires the parties to be strictly confined to the pleadings and the prayer clauses is not an inflexible rule insofar as exercise of writ jurisdiction is concerned”**. In para 38 of the judgment, in the case of Bali Ram (*supra*), the Hon'ble Supreme Court observed as follows:-

“38. Justice is a virtue which transcends all barriers. Neither the rules of procedure nor technicalities of law can stand in its way. Even the law bends before justice. The entire concept of writ jurisdiction exercised by the higher courts is founded on equity and fairness (see: *S. Nagaraj v. State of Karnataka*, 1993 Supp (4) SCC 595).”

48. In the case of Rajesh Kumar (*supra*), the Hon'ble Supreme Court, *inter alia*, held that **“The High Court was, in that view, entitled to mould the relief prayed for in the writ petition and issue directions considered necessary not only to maintain the purity of the selection process but also to ensure that no candidate earned an undeserved advantage over others by application of an erroneous key”**. The Hon'ble Supreme Court further held that **“The power of the court to mould the relief, according to the demands of the situation, was never the subject-matter of dispute in those cases. That power is well recognised and is available to a writ court to do complete justice between the parties. The first limb of the argument advanced by Mr Rao fails and is accordingly rejected”**.

49. It is a writ petition. In WP (M/S) No. 1401 of 2024, admittedly, the petitioner has not challenged the temporary

¹³ 2026 SCC OnLine SC 1319

¹⁴ (2013) 4 SCC 690

acquisition dated 23.05.2024. But, he has pleaded that the temporary acquisition order dated 23.05.2024 is not in accordance with the provisions of the 2013 Act. Therefore, in view of the settled law, this Court may definitely mould the relief, which under the facts and circumstances may warrant.

50. Learned State Counsel also argued that both the writ petitions have rendered infructuous because the impugned acquisitions were for the limited period of six months and that period has already expired, therefore, no effective or ancillary relief can be granted.

51. This Court will first determine the case of the petitioner in view of the arguments that have been raised by the learned counsel for the parties and it is only thereafter it will be seen as to whether the writ petitions have rendered infructuous.

52. In fact, the writ petitions have not been rendered infructuous, because in WP (M/S) No. 1401 of 2024, though the petitioner has not challenged the temporary acquisition order dated 23.05.2024, but he has sought possession of the helipad, and in WP (M/S) No. 2511 of 2025, the petitioner has not only sought the quashing of the acquisition order dated 27.06.2025, but has also sought compensation and accountability, etc. Those aspects require deliberation.

53. The sole ground in both the writ petitions for challenging the acquisition orders dated 23.05.2024 and 27.06.2025 is that the petitioner was not given any notice before the acquisition, which is mandatory. It will be examined.

54. This Court has already held that till 31.03.2024, the land on which the helipad is operating was leased to the petitioner by the respondent nos. 6 to 11 by a registered lease deed and beyond it, till 31.03.2027, the land was leased out to the petitioner by the respondent nos. 6 to 11 by unregistered lease deed. This was admitted to the respondent nos. 6 to 11 also and they have also admitted that they have taken rent also in advance. This Court has also held that the petitioner is a person interested as defined under Section 3(x) of the 2013 Act.

55. Learned counsel for the petitioner submits that the action of the respondents is in contravention to the principles of law settled by the Hon'ble Supreme Court in the judgment in the case of Bimal Kumar Shah (*supra*). He would submit that even in the case of temporary acquisition, a notice is to be given to the person interested. In this regard, he has referred to the judgment of the Hon'ble Supreme Court in the case of Mankeshwar Nath and others v. Collector, Agra and others¹⁵.

56. In the case of Bimal Kumar Shah (*supra*), the Hon'ble Supreme Court, *inter alia*, held that **“The constitutional discourse on compulsory acquisitions, has hitherto, rooted itself within the “power of eminent domain”. Even within that articulation, the twin conditions of the acquisition being for a public purpose and subjecting the divestiture to the payment of compensation in lieu of acquisition were mandated [State of Bihar v. Kameshwar Singh, (1952) 1 SCC 528]”**. Further, in para 30 of the judgment, the Hon'ble Supreme Court laid down the rights in that aspect as follows:

¹⁵ 1983 SCC OnLine All 359.

“30. What then are these sub-rights or strands of this swadeshi constitutional fabric constituting the right to property? Seven such sub-rights can be identified, albeit non-exhaustive. These are:

- (i) The duty of the State to inform the person that it intends to acquire his property — *the right to notice*,
- (ii) The duty of the State to hear objections to the acquisition — *the right to be heard*,
- (iii) The duty of the State to inform the person of its decision to acquire — *the right to a reasoned decision*,
- (iv) The duty of the State to demonstrate that the acquisition is for public purpose — *the duty to acquire only for public purpose*,
- (v) The duty of the State to restitute and rehabilitate — *the right of restitution or fair compensation*,
- (vi) The duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings — *the right to an efficient and expeditious process*, and
- (vii) The final conclusion of the proceedings leading to vesting — *the right of conclusion*.”

57. In the case of Mankeshwar Nath (*supra*), the Hon’ble Allahabad High Court has held that even in the case of temporary acquisition, notices are required to be served. In para 10 of the judgment, the Hon’ble Allahabad High Court has observed as follows:-

“10. It is obvious and almost admitted that in pursuance of the proceedings to acquire the land temporarily under Section 35, no notices were sent to the claimants, atleast there is no material on the record to prove otherwise. The defendant did not controvert the statement made in the reference application and this fact, therefore, ought to be deemed to having been admitted by the State. Also, no agreement was entered into between the Collector and the appellants. That being so, the claimants could not have asked for reference being made to the Court under sub-clause (3) of Section 35. The action of the Collector in occupying the land before any agreement had been reduced the writing as required in sub-clause (2) and (3) of section was itself illegal and cannot be taken advantage of by the State. A party which is itself guilty of violating the provisions of law and in failing to discharge its statutory

functions in accordance with law, cannot be permitted to use the said lapse as a defence. To permit this would amount to giving premium for the illegalities in procedure committed by the Collector in this case. The Collector by his own conduct is estopped from raising such a plea in defence.”

58. There is another provision in the 2013 Act that deals with the notice in temporary acquisition. Section 21 of the 2013 Act deals with notice to the persons interested and Section 81 of the 2013 Act deals with temporary occupation of land. Sections 21 and 81 of the 2013 Act read as under:-

“21. Notice to persons interested.—(1) The Collector shall publish the public notice on his website and cause public notice to be given at convenient places on or near the land to be taken, stating that the Government intends to take possession of the land, and that claims to compensations and rehabilitation and resettlement for all interests in such land may be made to him.

(2) The public notice referred to in sub-section (1) shall state the particulars of the land so needed, and require all persons interested in the land to appear personally or by agent or advocate before the Collector at a time and place mentioned in the public notice not being less than thirty days and not more than six months after the date of publication of the notice, and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, their claims to rehabilitation and resettlement along with their objections, if any, to the measurements made under Section 20.

(3) The Collector may in any case require such statement referred to in sub-section (2) to be made in writing and signed by the party or his agent.

(4) The Collector shall also serve notice to the same effect on the occupier, if any, of such land and on all such persons known or believed to be interested therein, be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the revenue district in which the land is situated.

(5) In case any person so interested resides elsewhere, and has no such agent, the Collector shall ensure that the notice shall be sent to him by post in letter addressed to him at his last known residence, address of place or business and also publish the same in at least two national daily newspapers and also on his website.”

“81. Temporary occupation of waste or arable land, procedure when difference as to compensation exists. –

(1) Whenever it appears to the appropriate Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, the appropriate Government may direct the Collector to procure the occupation and use of the same for such terms as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Collector shall thereupon give notice in writing to the person interested in such land of the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or appointment thereof, the Collector shall refer such difference to the decision of the Authority.”

59. An act if required to be done in a particular manner has to be done in that particular manner and in no other manner. In the instant case, what is involved is the right to property of the person interested. A person may not be divested of the use of his own land without following the due process of law. In the case of Bimal Kumar Shah (*supra*), the Hon’ble Supreme Court has, in fact, described those seven rights.

60. In the instant case, according to the respondent State and the respondent no. 4/UCADA, temporary acquisition was done on 23.05.2024 and 27.06.2025. In so far as the acquisition dated

23.05.2024 is concerned, what is admitted to the parties is that a communication dated 20.05.2024 was given to the respondent no. 6 Kishore Singh Panwar, by which the approval of the respondent no. 6 was sought for using the helipad. It is the case of the respondent no. 4/UCADA that the respondent no. 6 never responded to despite repeated requests and thereafter, acquisition was made on 23.05.2024.

61. It is true that notice need not be in detail. But, prior notice required to be given before temporary acquisition. Section 81(2) of the 2013 Act provides that the Collector shall give notice in writing to the person interested in such land of the purpose for which the land is needed, its term and for the materials to be taken therefrom, etc. No notice as stipulated under Section 81(2) of the 2013 Act was given before temporary acquisition of the helipad on 23.05.2024. The communication which was made by the respondent no. 4/UCADA to the respondent no. 6 Kishore Singh Panwar is not in conformity with Section 81(2) of the 2013 Act. It does not give the terms, etc. It seeks approval and the time given for according approval is one day. By 21.05.2024 till 12:00 noon, the response was required from the respondent no. 6 by the respondent no. 4/UCADA. Can someone's land be acquired within a notice of twenty-four hours? Is it not a force upon a person to accord his consent? Acquisition was made on 23.05.2024.

62. For the sake of arguments, if it is assumed that any notice was given to the respondent no. 6 Kishore Singh Panwar on 20.05.2024 in conformity with Section 81(2) of the 2013 Act, acquisition could not have been done on 23.05.2024. The notice should give a reasonable time. In the instant case, no notice as such was given to the respondent no. 6 or any other land owners

or the petitioner, who is the person interested, before acquisition of the helipad on 23.05.2024. Therefore, the acquisition that was made by the respondent State on 23.05.2024 has been done in gross violation of the provisions of the 2013 Act.

63. In so far as the acquisition dated 27.06.2025 is concerned, which is impugned in WP (M/S) No. 2511 of 2025, admittedly no notice was given prior to it. Simply, the helipad was acquired. Although, during the course of hearing on behalf of the respondent no. 4/UCADA, it was argued that on 28.06.2025, the persons interested were informed that the helipad has further been temporarily acquired on 27.06.2025. This is not compliance of sub-section (2) of Section 81 of the 2013 Act. Notice was to be given prior to acquisition. Information of the notice post temporary acquisition does not meet the requirement under Section 81(2) of the 2013 Act.

64. In view of the foregoing discussions, this Court is of the view that, in fact, the respondent State had temporarily acquired the helipad on 23.05.2024 and 27.06.2025 in gross violation of the provisions of the 2013 Act. Therefore, while quashing the temporary acquisition orders dated 23.05.2024 and 27.06.2025, the writ petitions deserve to be allowed. Since, this Court has already held that the acquisition of helipad was made in gross violation of the provisions of the 2013 Act, this Court is also of the view that the petitioner is entitled to compensation for the illegal acquisition having been made by the respondent State.

65. The writ petitions are allowed. The temporary acquisition orders dated 23.05.2024 and 27.06.2025, by which the helipad of the petitioner was acquired are quashed.

66. The respondent no. 3/District Magistrate, Chamoli is directed to restore the control and possession of the helipad at Govind Ghat, Tehsil Joshimath, District Chamoli to the petitioner within a period of fifteen days from today and accordingly submit a compliance report to this Court.

67. The respondent no. 3/District Magistrate, Chamoli is further directed to compensate the petitioner in accordance with the market rate for landing undertaken for the entire period since being most applicable *vis-a-vis* the Helipad Policy 2023-24 of the respondent no. 4/UCADA or its Landing Charges Rate List of 2018.

(Ravindra Maithani, J.)
20.08.2026

Avneet/